

## **Council on Governmental Relations (COGR) Update: OMB Updated Implementing Guidance for ARRA (4/7/09)**

OMB Director Peter Orszag has issued additional guidance to heads of federal Departments and agencies on implementation of the American Recovery and Reinvestment Act – dated April 3, Memorandum number M-09-15, and available at [http://www.whitehouse.gov/omb/recovery\\_default/](http://www.whitehouse.gov/omb/recovery_default/).

### **OMB Guidance**

This new document supplements, amends and clarifies the initial OMB guidance issued on February 18, 2009. Of particular interest for grantees:

1. Sections 2.10 through 2.15 provide more detailed description of the ARRA reporting requirements. Importantly, OMB has determined that it will be most effective and efficient if it develops a central collection and reporting capability to comply with Section 1512 of the Recovery Act. Federal agencies will be able to add data elements for collection so that they can meet their reporting requirements under the Act, but OMB states that the central system will be developed with the flexibility to collect agency-specific and program-specific reporting elements. Any other deviation from use of the central reporting system by Agencies must meet certain criteria and be approved by OMB.
2. Section 2.11 indicates that the first statutory reporting deadline is October 10, 2009, NOT July 10, 2009 as originally indicated. Our understanding is that the central reporting system will not be completely functional to be used for July 10 reporting. Despite that determination, the OMB Guidance states that OMB is working with agencies to determine how to collect information from recipients for July 10 reporting, so some data will be required but it is not certain what that will be or how it will be collected. Also, OMB states that detailed reporting instructions for use of the central reporting system will be available no less than 45 days before the October 10 deadline, so by late August we should see those instructions at [www.federalreporting.gov](http://www.federalreporting.gov).
3. Section 2.13 has a greatly expanded discussion of the requirement to report on jobs created and retained under ARRA funding. OMB states that, in order to ensure recipient reporting of estimated jobs created or retained, it has worked with agencies to include job reporting requirements in the terms and conditions of contract, grant, and loan agreements. As we know, on March 31 and April 1, changes to the Federal Acquisition Regulation and an Information Collection Notice for Financial Assistance were published in the Federal Register, seeking comments on proposed reporting requirements for ARRA contracts and grants that includes jobs reporting requirements.

**Excerpt from the OMB Guidance on reporting jobs information:**

*For recipient reporting of jobs, the requirements state that prime recipients should provide a description of the employment impact of the Recovery Act funded work, including the types of jobs (e.g., job titles or broader labor categories), and an estimate of the number of jobs created or retained by project and activity or contract. Only jobs that are compensated should be reported. Recipients should report full-time equivalent (FTE) estimates cumulatively created or retained for each calendar quarter. FTE calculations are based on aggregate hours worked to ensure temporary or part-time labor is not overstated. Grant recipients are also encouraged to clarify in their narrative job description where projects or activities are funded by multiple Federal awards as well as specifying the jobs attributable to Recovery Act funds as part of the project or activity total. If known, grant recipients will also address the impact on the workforces of sub-recipients. At a minimum, each recipient shall provide:*

(1) A brief description of the types of jobs created or jobs retained in the United States and outlying areas. "Jobs created" means those new positions created and filled, or previously existing unfilled positions that are filled, as a result of Recovery Act funding. "Jobs or positions retained" means those previously existing filled positions that are retained as a result of Recovery Act funding. Recipient descriptions may rely on job titles, broader labor categories, or the recipients existing practice for describing jobs as long as the terms used are widely understood and explain the general nature of the work. Note that a job cannot be reported as both created and retained.

(2) An estimate of the number of jobs created and jobs retained in the United States and outlying areas. At a minimum, this estimate shall include any new positions created and any existing filled positions that were retained to support or carry out Recovery Act projects or activities managed directly by the recipient, and if known, by sub-recipients. The number shall be expressed as "full-time equivalent" (FTE), calculated cumulatively as all hours worked divided by the total number of hours in a full-time schedule, as defined by the recipient. For instance, two full-time employees and one part-time employee working half days would be reported as 2.5 FTE in each calendar quarter. Because FTE is calculated based on aggregate hours worked, temporary or part-time labor is not overstated.

4. Included in the April 3 OMB Guidance is an upcoming Federal Register Notice, "Interim Final Guidance for Federal Financial Assistance – Requirements for Implementing Sections 1512, 1605, and 1606 of the American Recovery and Reinvestment Act of 2009 for Financial Assistance Awards". This Guidance is primarily directed towards the federal agencies, but as always may directly impact recipients responsibilities. It provides detailed instructions on compliance with the "Buy American" Act, the wage rate requirements that apply to certain ARRA projects, and how to ensure proper accounting and reporting of Recovery Act expenditures in Single Audits under OMB Circular A-133. Comments on this Interim Final Guidance are due 60 days from Federal Register publication, so the comment deadline will be around June 4, 2009.

Finally, OMB states that it welcomes comments on any part of its April 3 Guidance, and that it will be issue further memoranda within the next 30-60 days, clarifying any points based on the feedback received.